

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

ROBERT ALVARADO, et al.,

Plaintiffs,

v.

MARGARET ELLEN ALVAREZ,  
et al.,

Defendant.

No. C 05-0569 PJH

**ORDER ADOPTING  
MAGISTRATE JUDGE'S REPORT  
AND RECOMMENDATION AND  
GRANTING MOTION FOR DEFAULT  
JUDGMENT**

The court has reviewed Magistrate Judge Brazil's report and recommendation re plaintiffs' motion for default judgment. Defendants filed no objections to the report. The court finds the report correct, well-reasoned and thorough, and adopts it in every respect. Accordingly, plaintiffs' motion for default judgment is GRANTED.

In accordance with the discussion in the report and recommendation, the court finds that where plaintiffs seek to confirm an award made pursuant to a collective bargaining agreement, they may seek confirmation of that award if they satisfy the standards under either the Federal Arbitration Act, 9 U.S.C. § 9, or § 301 of the Labor Management Relations Act, The court finds that the March 10, 2004, Board of Adjustment award is properly confirmed under the LMRA.

The court orders as follows:

1. Defendants shall immediately cease and desist further violations of the current Carpenters Master Agreement for the remainder of its term, and shall comply with the Agreement for the remainder of its term.

2. Defendants shall pay a total of \$347,614.91, which includes (a) the Promissory Note for \$120,672.06, representing delinquent contributions for the period May 2003 through August 2003, plus liquidated damages in the amount of \$13,378.02, and accrued interest in

1 the amount of \$3,958.70 on the delinquent contributions for that period; and (b) \$190,551.94,  
2 representing delinquent contributions for the period September 2003 through January 2004,  
3 plus liquidated damages in the amount of \$19,055.19 on the delinquent contributions for that  
4 period.

5 3. Defendants shall immediately cease and desist from improperly reporting and  
6 untimely paying Trust Fund contributions that are required to be paid under the various Trust  
7 Funds referred to in the Carpenters Master Agreement.

8 4. Defendants shall correctly report and timely pay all required contributions to  
9 each and every one of the various Trust Funds referred to in the Carpenters Master  
10 Agreement. "Timely payment" means that all payments must be paid on or before the 15th  
11 and no later than the 25th of each month following the work month for which each such report is  
12 made.

13 5. Defendants shall pay \$300.00 to plaintiffs, representing defendants' share of the  
14 cost of the arbitration proceedings.

15 6. Defendants shall submit to an audit, by plaintiffs, of defendants' records relevant  
16 to the claims asserted in the present action. If additional contributions are found to be due  
17 and owing to the plaintiffs, plaintiffs may petition the court in writing to amend the judgment to  
18 include such amounts. Plaintiffs must provide defendants with notice of any request to amend  
19 the judgment.

20 7. Defendants shall pay \$6,780.68 in attorneys' fees and costs.

21  
22 **IT IS SO ORDERED.**

23 Dated: October 24, 2005

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26 PHYLLIS J. HAMILTON  
27 United States District Judge  
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